

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Adjourned Meeting  
March 27, 2001

6:30 p.m.

Meeting Convened. An Adjourned Meeting of the York County Board of Supervisors was called to order at 6:30 p.m., Tuesday, March 27, 2001, in the East Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Donald E. Wiggins, James S. Burgett, and H. R. Ashe.

Sheila S. Noll was absent

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

**WORK SESSION**

CAPITAL IMPROVEMENTS PROGRAM (CIP) ISSUES

Mr. McReynolds reviewed the CIP requests for the following projects:

- Telephone System Upgrade
- Back Creek Park Fencing and Lighting
- Park Design
- Schenck Estates Water and Sewer
- Stormwater Funding.

Mrs. Noll arrived at 6:33 p.m.

Discussion followed regarding the original installation of the current telephone system and the needed upgrade. Staff displayed for the Board members photographs of the poor condition of the lighting facilities at Back Creek Park, and discussion ensued on the merits of replacement versus repair on the equipment. The Board briefly reviewed the need for park design and involvement by the Parks and Recreation Advisory Board. The timing of the sewer and water projects for Schenck Estates was reviewed and discussed.

Chairman Burgett then noted he did not feel there was a need for any further work sessions on the proposed FY2002 Budget.

Mrs. Noll and Mr. Wiggins expressed their agreement with Chairman Burgett.

Mr. McReynolds then briefly reviewed the topics that would be discussed at the April 3 work session.

**UNFINISHED BUSINESS**

PROCUREMENT ISSUES

Mr. McReynolds provided the Board members with an overview of the procurement process, stating that Mr. Barnett would go over some of the legal definitions. He explained that funds were budgeted in the operating or capital budgets; and, once approved, the requesting department developed specifications for the project. In order to do this, staff uses a set of standards developed in cooperation with neighboring jurisdictions through the Hampton Roads Planning District Commission which allows the contractors a better understanding of what is being asked for and gives a better comparison of the bids. The specifications are then forwarded to the Purchasing Division which is followed by the County Attorney's legal review. Once the contracts and specifications are in order, the bid is advertised. The advertisement specifies a specific place, date, and time when the bids will be opened. At that time they are opened and read aloud with the bid and bidder being recorded. The bids are then verified for their responsiveness regarding quantities and quality, the math checked, and all specific requirements reviewed. If the bid is found to be responsive, it is then reviewed for responsibility. The staff checks references, performance on other County jobs, the company's financial position, vendor staff credentials, and equipment to be used. Finally, there is a bid award with the recommendation being the award to the lowest responsive and responsible bidder.

Mr. Wiggins asked if the bidders could be screened before the job was bid.

Mr. McReynolds indicated that from time to time, depending on the nature of the project, there may be a prequalification for a project.

Mr. Barnett noted that it may be done if the locality has an ordinance allowing it to do so, and York has such an ordinance.

Mr. McReynolds stated that most of the County's projects are standard construction. With the vacuum sewer system, staff used prequalification. He stated a pre-bid conference is not uncommon.

Mr. Barnett then reviewed the legal meanings of "responsive" and "responsible."

Mr. Wiggins stated if a contractor submits a bid for a particular job, and the bid is considered to be responsive and responsible and is the lowest bidder, the Board doesn't have the authority to deny him the project because of something he has done that has nothing to do with his ability to perform the work outlined in the project.

Mr. Barnett indicated Mr. Wiggins was correct, and he explained that an appeal process exists for those bidders that have been deemed to be non-responsive.

Mr. Zaremba stated it would seem to him that in the selection and award process the staff should look for discriminators when the bids are close. In the case of the Dare sewer and water contract, the low bidder, who does work in the County, has a reputation for being non-responsive. He stated he couldn't believe that the contractor's actions wouldn't fall within the parameters of what the County Attorney was saying was an allowable part of the review process. He stated the Board of Supervisors should not be involved in the contract selection process. The only time the Board should be involved is when something appears to be inconsistent with the statutes. Mr. Zaremba stated it was not his intention for the Board to take action on the Dare sewer and water contract award at this meeting, but only to bring to the attention of

the Board the information it needed to make a decision. He noted he understood this matter was time-sensitive, but he asked if the Board would agree to wait until April 3 to act on it.

Mr. McReynolds indicated it would be difficult to have all the paperwork completed between April 3 and April 11 when all the bids would no longer be valid.

Mr. Zaremba stated he would like to know whether or not the contractor's performance on Fenton Mill Road was a part of the evaluation process used by staff.

Mr. McReynolds indicated that staff was aware of the fact that this was a sensitive issue. Staff has looked at the criteria and found that for sewer construction purposes the lowest bidder in this case was responsive and responsible. Based on discussions with Mr. Barnett, staff sees no reason to disqualify the low bidder.

Mr. Barnett stated the question that must be asked is whether or not the issue that took place on the contractors own property has any bearing on whether or not he can perform this contract. He has done work for the County before and completed it to the staff's satisfaction.

Chairman Burgett noted that Mr. Waltrip did the Calthrop Neck Road project, and he asked if he had a good reputation for that project.

Mr. John Hudgins, Director of Environmental and Development Services, stated Mr. Waltrip has done 44 percent of two sewer projects for the County, and he has done a very good job for the County regarding these projects.

Discussion followed on the criteria to be reviewed in assessing bidders for responsiveness and responsibility in performance of a contract.

Mr. Zaremba stated he would like to know if Mr. Waltrip's previous performance on his property in the upper part of the County was taken into consideration when reviewing the bids for the Dare sewer and water project.

Chairman Burgett indicated that the Board would defer action on the Dare water and sewer contract until April 3 in order to give citizens the chance to speak on this issue.

Mrs. Noll stated she would hope that people would speak only to the issue at hand and not to all the other problems they have with Mr. Waltrip.

Mr. Ashe stated he lives off Calthrop Neck Road, and Mr. Waltrip was the contractor for 16 months on the project there. He stated Mr. Waltrip did an excellent job under very tough conditions. As far as his ability to perform, Mr. Ashe stated Mr. Waltrip did an excellent job on Calthrop Neck Road.

## **NEW BUSINESS**

### **REQUEST FOR GENERAL ASSEMBLY TO CONVENE TO ADDRESS BUDGET**

Mr. McReynolds briefly reviewed proposed Resolution R01-68 which requests the Governor and the members of the General Assembly to reconvene in session to address the budget shortfall for the second year of the biennium.

Mrs. Noll noted that the Chambers of Commerce had also adopted a similar resolution.

Mrs. Noll then moved the adoption of proposed Resolution R01-68 that reads:

A RESOLUTION TO REQUEST THAT THE MEMBERS OF THE VIRGINIA GENERAL ASSEMBLY AND THE GOVERNOR RECONVENE A SESSION FOR THE PURPOSE OF APPROVING AMENDMENTS TO THE 2000-2002 BIENNIAL BUDGET

WHEREAS, the 2001 session of the Virginia General Assembly adjourned on February 24 without agreement between the House of Delegates, the Senate of Virginia, and the Governor to amend the state budget for the second year of the biennium; and

WHEREAS, the state budget approved during the 2000 session of the Virginia General Assembly will remain in effect until a budget agreement is reached that reflects the changes in revenues and needs for the next fiscal year; and

WHEREAS the revenue projections upon which the 2000 budget was based have not been met, and a revenue shortfall of more than \$420 million must be addressed, while state revenue projections for 7 percent growth in 2002 are in question; and

WHEREAS, absent a budget agreement approved by the Virginia General Assembly, the Governor will have to cut services and programs in order to meet the Constitutional requirement for a balanced budget, and is prohibited by law from appropriating new funds; and

WHEREAS, the impact of this situation on local governments is significant and immediate because of reduced state aid to localities, and the elimination of second year funding for items such as salary increases for teachers, constitutional officers, and state-funded local employees; and

WHEREAS, the further impact of budget cuts and the failure to fund second year needs is certain to be extensive and unnecessarily harmful to citizens, schools, colleges and universities, cultural facilities, and the business community; and

WHEREAS, citizens of York County have elected two Delegates and two Senators to serve in the Virginia General Assembly and to participate in the process of deciding state budget priorities, including those that reflect local priorities;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 27<sup>th</sup> day of March, 2001, that it does hereby urge and request members of the Virginia General Assembly and the Governor to reconvene a session of the General Assembly for the purpose of approving amendments to the 2000-2002 biennial budget to reflect the revenue shortfall and the responsibilities for services shared with local government.

BE IT FURTHER RESOLVED that the County Administrator is hereby directed to transmit copies of this resolution to all members of the York County General Assembly delegation, and to the Honorable Governor of the Commonwealth.

On roll call the vote was:

Yea: (5)      Zaremba, Noll, Wiggins, Ashe, Burgett  
Nay: (0)

PENINSULA ALLIANCE FOR ECONOMIC DEVELOPMENT (PAED) (Not on Agenda)

Mr. McReynolds noted that Mr. Wiggins had asked Mr. Noel to be present to address questions he had on the PAED.

Mr. Wiggins noted that the County spends approximately \$96,000 a year on the PAED, and he asked Mr. Noel to familiarize the citizens on the use of that money.

Mr. James Noel, Director of Economic Development, stated the Alliance is a regional marketing entity that promotes all the businesses on the Peninsula. It attracts new business investment into the communities. The Alliance has also adopted a second objective of Workforce Development to insure the Peninsula has the most effective workforce possible. Mr. Noel went on to explain how this aspect of the program works with businesses to provide training to meet the needs identified by the people who need them. He spoke of the new Workforce Development Center that will be built at Thomas Nelson Community College which will be a state-of-the-art facility to help provide needed training. Mr. Noel then explained how the primary vehicle used to attract new industry to the area are marketing missions where members of the Alliance, local businesses, and local economic development representatives form teams to go out and promote the Peninsula. He noted teams have gone to Northern Virginia and will be going to Canada soon.

Mrs. Noll then noted that Thomas Nelson Community College was officially designated as a multi-campus educational facility because it had dedicated a new campus in the upper end of York County, and she stated she was pleased to see educational opportunities being brought in to this area.

Meeting Adjourned. At 8:03 p.m. Chairman Burgett declared the meeting adjourned to 5:00 p.m., Tuesday, April 3, 2001, in the East Room, York Hall, for the purpose of conducting a work session.

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James O. McReynolds, Clerk  
York County Board of Supervisors

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James S. Burgett, Chairman  
York County Board of Supervisors